

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROBIN ANTHONY RITTERMANN
(a.k.a. ROBIN ANTHONY
RITTERMAN),

Petitioner,

vs.

MAGGIE MILLER-STOUT,

Respondent.

NO. CV-08-277-LRS

ORDER DISMISSING ACTION AND
DENYING CERTIFICATE OF
APPEALABILITY

BEFORE THE COURT is Petitioner Robin Anthony Rittermann's Response (Ct. Rec. 12) to the Order to Show Cause (Ct. Rec. 10) why this action should not be dismissed. Petitioner, a prisoner at the Airway Heights Correction Center, is proceeding *pro se* and *in forma pauperis*. Petitioner concedes ground three of his amended federal habeas petition should be summarily dismissed.

After thorough review of Petitioner's arguments and for the reasons set forth in the court's previous Order (Ct. Rec. 10), **IT IS ORDERED** this action is **DISMISSED with prejudice** as time-barred under 28 U.S.C. § 2244(d)¹, for failure to state cognizable federal claims under Habeas Rule 4, for failure to exhaust state court remedies, and

¹Even accepting Petitioner's argument that entry of his revocation order occurred on July 31, 2006, rather than the date he had previously provided, July 28, 2008, this three day differential does not affect the Court's prior determination the federal habeas petition is untimely.

1 for failure to demonstrate cause and prejudice, and/or a substantial
2 miscarriage of justice to justify federal review. *Coleman v.*
3 *Thompson*, 501 U.S. 722 (1991). In addition, Petitioner's requests in
4 the Response to amend and/or for appointment of counsel are denied as
5 moot. The Motion for Extension of Time (Ct. Rec. 11) is also **DENIED**
6 **as moot** as Mr. Rittermann did file a Response.

7 The court finds a certificate of appealability should not issue
8 in this case if Petitioner chooses to file a notice of appeal.
9 Petitioner did not present a substantial showing of the denial of a
10 constitutional right. 28 U.S.C. § 2253(c)(2). Furthermore, he did
11 not show that jurists of reason would find it debatable whether his
12 Amended Petition states a valid claim of the denial of a
13 constitutional right or whether this court was correct in its
14 procedural rulings. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

15 **IT IS SO ORDERED.** The District Court Executive is directed to
16 enter this Order, enter judgment, forward a copy to Petitioner, and
17 close the file.

18 **DATED** this 5th day of December 2008.

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20 ***s/Lonny R. Suko***

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LONNY R. SUKO
22 UNITED STATES DISTRICT JUDGE
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